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**FISCAL IMPACT STATEMENT**

**LS 7760**

**BILL NUMBER:** SB 550

**NOTE PREPARED:** Mar 19, 2007

**BILL AMENDED:** Mar 19, 2007

**SUBJECT:** Anatomical Gifts.

**FIRST AUTHOR:** Sen. Becker

**FIRST SPONSOR:** Rep. Welch

**BILL STATUS:** 2<sup>nd</sup> Reading - 2<sup>nd</sup> House

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill repeals the Uniform Anatomical Gift Act (current act) and replaces it with the Revised Uniform Anatomical Gift Act. The bill keeps language from the current act concerning: (1) anatomical gifts to specified donees and the amendment or revocation of these gifts; (2) individuals or entities that may petition a probate court to determine whether an individual has made an anatomical gift or revoked an anatomical gift; (3) hospitals inquiring whether patients are, or would like to be organ donors; and (4) certain immunities regarding anatomical gifts.

The bill provides that if a prospective organ donor has a declaration or an advance health care directive, hospitals must use measures necessary to allow a procurement agency to determine the medical suitability of an organ by insuring that life support is not withdrawn before consultation with the procurement agency.

The bill also requires a coroner to cooperate with a procurement organization to maximize the opportunity to recover anatomical gifts. It requires a coroner to document why a postmortem examination occurred outside of a compatible period.

The bill provides that if a coroner or designee of a coroner must be present at certain removal procedures or perform duties at times other than those that are usual and customary for the coroner or designee to maximize tissue or eye recovery, at the request of the coroner or designee, the procurement organization that requested the recovery of a part of a body shall reimburse the coroner or designee for the additional costs incurred by the coroner or designee.

The bill requires the Indiana State Department of Health to compile and make available for public inspection records of a coroner, pathologist, or designee denying an anatomical gift

The bill makes it a Class A misdemeanor if an individual, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces or obliterates a document that expresses, makes an amendment to, or refuses a gift of organs, tissues, eyes or body part intended to be used in research or in transplants. It makes conforming amendments.

The bill provides a \$10,000 income tax deduction for human organ donation by an individual or an individual's dependent.

The bill also provides that the law concerning the Anatomical Gift Promotion Fund expires July 1, 2012, instead of July 1, 2007. The bill adds references to Donate Life Indiana in the Anatomical Gift Promotion Fund law.

**Effective Date:** June 30, 2007; July 1, 2007.

**Explanation of State Expenditures:** The bill requires the State Department of Health to receive records of a coroner or designee that have recorded the reasons for denying the recovery of an anatomical gift. The Department is to compile the records and make them available for public inspection. The fiscal impact of this provision would be dependent upon the number of records concerning the reasons for denials for recovery of anatomical gifts that might be received by the Department and the specific information the Department is to compile to make available for public inspection.

*Appropriation Background:* The ISDH administrative appropriations were made from the dedicated Tobacco Master Settlement Agreement Fund for FY 2006 and FY 2007. The funding source of the FY 2008 and FY 2009 ISDH administrative appropriations will be determined by the General Assembly.

*Income Tax Deduction for Organ Donations:* The Department of State Revenue (DOR) will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the new deduction for expenses relating to a human organ donation. The DOR's current level of resources should be sufficient to implement the new deduction.

The bill also extends the authorization for the Anatomical Gift Promotion Fund and the distribution of the monies to the Indiana Donation Alliance Foundation and Donate Life Indiana.

*Background:* Currently, persons registering a motor vehicle may donate money to promote the procurement of organs for anatomical gifts. The person registering the motor vehicle may indicate the amount the person wishes to donate. The minimum donation is \$1. Donations are collected by the Bureau of Motor Vehicles and transferred to the State Department of Health for distribution to the Indiana Donation Alliance Foundation. Fund revenue for the last five years is shown below.

FY 2002	\$ 202,160
FY 2003	\$ 202,516
FY 2004	\$ 186,458
FY 2005	\$ 216,454
FY 2006	\$ 155,139

**Explanation of State Revenues:** *Income Tax Deduction for Organ Donations:* The bill would reduce state Adjusted Gross Income (AGI) Tax liabilities of individual taxpayers who incur certain expenses in connection with the donation of a human organ by the taxpayer or the taxpayer's dependent for human organ transplantation. The revenue loss due to this bill could potentially total about \$32,000 to \$33,000 in FY 2009, with annual growth in the revenue loss ranging from about 4% to 6% thereafter.

*Background:* The bill establishes an AGI deduction for unreimbursed travel expenses, housing expenses, lost wages, and other expenses incurred in connection with the donation of a human organ by the taxpayer or the taxpayer's dependent for human organ transplantation. The bill defines "human organ" to be all or a part of the kidney, liver, lung, bone marrow, pancreas, or intestine of a human body. The deduction is equal to the lesser of the individual's deductible expenses or \$10,000. The deduction may be claimed only once during an individual's lifetime.

The Organ Procurement and Transplantation Network (OPTN) reports the number of live donor organ donations carried out annually in each state. From January through September of 2006, 82 organ donations were carried out in Indiana. The 2005 total was equal to 74, with a five-year annual average (2001 to 2005) of 69. Since 2001, annual organ donations in Indiana have grown at an average rate of almost 4%, with the long-run growth rate (1988 to 2005) equal to about 5.6%.

The revenue from the AGI Tax on individuals is deposited in the state General Fund (86%) and the Property Tax Replacement Fund (14%). Since the deduction is effective beginning in tax year 2008, the fiscal impact would begin in FY 2009.

*Penalty Provision:* The bill establishes a new Class A misdemeanor of intentionally falsifying, forging, concealing, defacing or obliterating a document that expresses, makes an amendment to, or refuses a gift of organs, tissues, eyes or body part intended to be used in research or in transplants.

If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

**Explanation of Local Expenditures:** The bill provides that a coroner shall cooperate with procurement organizations to maximize the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research, or education. (Current statute provides that a coroner may release and permit the removal of a part from a body within the coroner's custody for transplantation or therapy only if all specified actions are met.) The bill further requires that coroners or designees must conduct postmortem examinations in a manner and within a compatible time period with preservation for the purpose of an anatomical gift.

(Revised) The bill specifies that if a coroner or designee considers withholding tissue or organs of a potential donor, the coroner or designee shall be present at the scene before making a final determination to deny the recovery of the organ or tissue. The bill further provides that if a coroner or designee of a coroner must be present at certain removal procedures or perform duties at times other than those that are usual and customary for the coroner or designee to maximize tissue or eye recovery, at the request of the coroner or designee, the procurement organization that requested the recovery of a part of a body shall reimburse the coroner or designee for the additional costs incurred by the coroner or designee. (Coroners in rural areas may not have access to full-time pathologists who would be available to determine what parts may be harvested without destroying evidence needed for the coroner's investigation, requiring additional cost for the coroner to conduct an off-hours or unscheduled procedure for the pathologist.)

Local costs would be dependent upon the current level of participation with the organ procurement organization, and individual circumstances.

*Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail.

**Explanation of Local Revenues:** *Income Tax Deduction for Organ Donations:* Since the proposed deduction would affect an extremely small group of taxpayers, the impact on local option income taxes (CAGIT, COIT, and/or CEDIT) is expected to be minimal.

*Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** Department of Health; Department of State Revenue.

**Local Agencies Affected:** Trial courts; Local law enforcement agencies; Coroners.

**Information Sources:**

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